

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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RSC

September 4, 2020

Cancellation No. 92025859

*Empresa Cubana Del Tabaco d.b.a
Cubatabaco*

v.

General Cigar Co., Inc.

Rebecca Stempien Coyle, Interlocutory Attorney:

On September 2, 2020, the parties filed a consented motion for an extension of time of the remaining trial dates in this proceeding.

In the motion the parties request an extension of Respondent's trial period and additional time for Petitioner to complete oral cross-examination of Respondent's trial witnesses who submit testimony by affidavit or declaration, Petitioner's rebuttal disclosures, and the parties' respective trial briefs. The parties assert that the additional time is necessary because of the impact of the COVID-19 pandemic and the ability of each parties' counsel to access hard copies of evidence necessary to prepare for trial. Additionally, the parties assert that counsel for each party are involved in unrelated district court litigations and, during the suspension of this proceeding for Petitioner's motion to strike, scheduling orders were issued in each

district court that will make it difficult for the parties to comply with the existing schedule.

In view thereof, the parties' motion for extension of the remaining trial period is **granted**.¹ However, if Petitioner does not elect to take cross-examination of any of Respondent's witnesses, then Petitioner must so notify the Board within twenty days of the close of Respondent's trial period and the Board will reset dates accordingly.

The Board expects the parties to adhere to the remainder of the schedule as reset below.² The remainder of the trial dates are reset in accordance with the parties' motion, as follows:

Defendant's 30-day Trial Period Ends	9/29/2020
Completion of Oral Cross-Examination of Defendants' Witnesses Submitted by Affidavit or Declaration	12/18/2020
Plaintiff's Rebuttal Disclosures Due	1/16/2021
Plaintiff's 15-day Rebuttal Period Ends	2/15/2021
Plaintiff's Opening Brief Due	5/17/2021
Defendant's Brief Due	7/17/2021
Plaintiff's Reply Brief Due	9/2/2021
Request for Oral Hearing (optional) Due	9/12/2021

The Federal Rules of Evidence generally apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many

¹ This order does not affect Petitioner's obligation to properly notice any elections of oral cross-examination. Trademark Rule 2.123.

² Any further requests to extend or suspend the schedule, even if consented, must include a detailed explanation for the requested modification.

requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

TIPS FOR FILING EVIDENCE, TESTIMONY, OR LARGE DOCUMENTS

The Board requires each submission to meet the following criteria before it will be considered: 1) pages must be legible and easily read on a computer screen; 2) page orientation should be determined by its ease of viewing relevant text or evidence, for example, there should be no sideways or upside-down pages; 3) pages must appear in their proper order; 4) depositions and exhibits must be clearly labeled and numbered – use separator pages between exhibits and clearly label each exhibit using sequential letters or numbers; and 5) the entire submission should be text-searchable. Additionally, submissions must be compliant with Trademark Rules 2.119 and 2.126. Submissions failing to meet all of the criteria above may require re-filing. **Note:** Parties are strongly encouraged to check the entire document before filing.³ The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

³ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.